



AGENDA

Meeting of the Finance and Risk Management Committee San Diego Community Power (Community Power)

September 19, 2024
3:00 p.m.

City of Chula Vista
Council Chambers, 276 Fourth Avenue, Chula Vista, CA

The meeting will be held in person at the above date, time and location. Finance and Risk Management Committee (FRMC) Members and members of the public may attend in person. Under certain circumstances, FRMC Members may also attend and participate in the meeting virtually pursuant to the Brown Act (Gov. Code § 54953). As a convenience to the public, Community Power provides a call-in option and internet-based option for members of the public to virtually observe and provide public comments at its meetings. Additional details on in-person and virtual public participation are below. Please note that, in the event of a technical issue causing a disruption in the call-in option or internet-based option, the meeting will continue unless otherwise required by law, such as when an FRMC Member is attending the meeting virtually pursuant to certain provisions of the Brown Act.

Note: Any member of the public may provide comments to the FRMC on any agenda item. When providing comments, it is requested that you provide your name and city of residence for the record. Commenters are requested to address their comments to the FRMC as a whole through the Chair. Comments may be provided in one of the following manners:

1. Providing oral comments during the meeting. Anyone attending in person desiring to address the FRMC is asked to fill out a speaker's slip and present it to the Clerk of the Board. To provide remote comments during the meeting, join the Zoom meeting by computer, mobile phone, or dial-in number. On Zoom video conference by computer or mobile phone, use the "Raise Hand" feature. This will notify the moderator that you wish to speak during a specific item on the agenda or during non-agenda Public Comment. Members of the public will not be shown on video but will be able to speak when called upon. If joining the meeting using the Zoom dial-in number, you can raise your hand by pressing *9. Comments will be limited to three (3) minutes.
2. Written Comments. Written public comments must be submitted prior to the start of the meeting to clerkoftheboard@sdcommunitypower.org. Please indicate a specific agenda item when submitting your comment. All written comments received prior to the meeting will be provided to the FRMC members. In the discretion of the Chair, the first ten (10) submitted comments shall be stated into the record of the meeting. Comments read at the meeting will be limited to the first 400 words. Comments received after the start of the meeting will be collected, sent to the FRMC members, and be part of the public record.

If you have anything that you wish to be distributed to the FRMC, please provide it via clerkoftheboard@sdcommunitypower.org, who will distribute the information to the Members.

The public may participate using the following remote options:

Teleconference Meeting Webinar <https://zoom.us/j/93476863568> Telephone (Audio Only)
(669) 900-6833 or (253) 215-8782 | Webinar ID: 934 7686 3568

WELCOME

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

ITEMS TO BE ADDED, WITHDRAWN, OR REORDERED ON THE AGENDA

PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

Opportunity for members of the public to address the FRMC on any items not on the agenda but within the jurisdiction of the FRMC. Members of the public may provide a comment in any manner described above.

CONSENT CALENDAR

1. Approve June 20, 2024, Meeting Minutes

REGULAR AGENDA

2. Review of Treasurer's Report for Period Ending June 30, 2024

Recommendation: Receive and File Treasurer's Report for Period Ending June 30, 2024

3. Presentation and Update on Clean Energy Prepayment Financing

Recommendation: Receive and File Presentation and Update on Clean Energy Prepayment Financing.

4. Recommend Approval of Bond Issuer for Energy Prepayment Transaction

Recommendation: Recommend Board Adoption of Resolution approving the selection of California Community Choice Financing Authority (CCCFA), a joint powers authority, as the Bond Issuer for a potential SD Community Power energy prepayment financing transaction and authorizing SD Community Power to join the CCCFA as an Associate Member.

Committee Member Announcements

FRMC Members may briefly provide information to other members and the public. There is to be no discussion or action taken on comments made by FRMC Members unless authorized by law.

ADJOURNMENT

The Finance and Risk Management Committee will adjourn to the next regular meeting scheduled on Thursday, October 17, 2024.

Compliance with the Americans with Disabilities Act

Community Power Committee meetings comply with the protections and prohibitions of the Americans with Disabilities Act. Individuals with a disability who require a modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting may contact clerkoftheboard@sdcommunitypower.org. Requests for disability-related modifications or accommodations require different lead times and should be provided at least 72-hours in advance of the public meeting.

Availability of Committee Documents

Copies of the agenda and related materials are available at <https://sdcommunitypower.org/resources/meeting-notes/>. Late-arriving documents related to an agenda item, which are distributed to a majority of the Committee Members prior to or during the Committee meeting are available for public review as required by law. Public records, including agenda-related documents, can be requested electronically at clerkoftheboard@sdcommunitypower.org or by mail to SD Community Power, PO BOX 12716, San Diego, CA 92112. The documents may also be posted at Community Power's website. Such public records are also available for inspection by contacting clerkoftheboard@sdcommunitypower.org to arrange an appointment.



**FINANCE AND RISK MANAGEMENT COMMITTEE
SAN DIEGO COMMUNITY POWER (COMMUNITY POWER)**

City of Chula Vista
Council Chambers, 276 Fourth Avenue, Chula Vista, CA

**Regular Meeting Minutes
June 20, 2024**

The Committee minutes are prepared and ordered to correspond to the Committee Agenda. Agenda Items can be taken out of order during the meeting.

The Agenda Items were considered in the order presented.

WELCOME

CALL TO ORDER

Chair McCann called the Finance and Risk Management Committee meeting to order at 3:04 p.m.

Chair McCann introduced Michelle Soto, Finance Intern.

ROLL CALL

PRESENT: Chair McCann (City of Chula Vista), Director Yamane (City of National City), and Director Aguirre (City of Imperial Beach; arrived at 3:26 p.m.)

ABSENT: None

Also Present: Chief Executive Officer Burns, Chief Financial Officer/Treasurer Washington, General Counsel Tyagi, Director of Finance Manager Manglicmot, Senior Financial Analyst Do and Assistant Clerk of the Board Vences

PLEDGE OF ALLEGIANCE

Mr. Manglicmot led the Pledge of Allegiance.

ITEMS TO BE ADDED, WITHDRAWN, OR REORDERED ON THE AGENDA

There were no items to be added, withdrawn, or reordered on the agenda.

PUBLIC COMMENTS FOR ITEMS NOT ON THE AGENDA

There were no public comments.

CONSENT CALENDAR

1. Approve May 16, 2024, Meeting Minutes

There were no public comments on Consent Item No. 1.

Motioned by Chair McCann and seconded by Director Yamane to approve the minutes of the Finance and Risk Management Committee meeting held on Thursday, May 16, 2024.

The motion carried 2/1 as follows:

AYES: Chair McCann and Director Yamane

NOES: None

ABSTAINED: None

ABSENT: Director Aguirre

REGULAR AGENDA

2. Review of Treasurer's Report for Period Ending April 30, 2024

Dr. Washington presented the Treasurer's Report for the period ending April 30, 2024.

There were no public comments on Item No. 2.

There were no Committee questions or comments, and no action was taken.

3. Approval of Second Revision of Reserves Policy Revision

Mr. Manglicmot provided an overview on the Second Revision of Reserves Policy, including historical cash on hand and liquidity, reserve policy updates, benchmarking with four CCA's reserve targets, and proposed Board approval of the Second Revision of Reserves Policy Revision.

There were no public comments on Item No. 3.

Following Committee questions and comments, the following action was taken:

Motioned by Chair McCann and seconded by Director Yamane to recommend Board Approval of the Second Revision to the Financial Reserves Policy. The motion carried 2/1 as follows:

AYES: Chair McCann and Director Yamane

NOES: None

ABSTAINED: None

ABSENT: Director Aguirre

4. Approval of Investment Policy Revision

Mr. Manglicmot and Mr. Do provided an overview of the Investment Policy Revision, including the investment policy timeline, development of investment policy, investment policy revisions, acceptable and prohibited investment types, investment objectives, and proposed Board approval of Resolution No. 2024-04, adopting the first revision of the SDCP Investment Policy.

There were no public comments on Item No. 4.

Following Committee questions and comments, the following action was taken:

Motioned by Chair McCann and seconded by Director Yamane to recommend Board Approval of Resolution No. 2024-04, adopting the first revision of the SDCP Investment Policy. The motion carried unanimously by the following vote:

AYES: Chair McCann Director Aguirre and Director Yamane
NOES: None
ABSTAINED: None
ABSENT: None

5. Approval of the FY 2024-25 Operating Budget, the FY 2024-25 Capital Budget, and the FY 2025-29 Capital Investment Plan

Dr. Washington provided an overview of the FY 2024-25 Operating Budget, the FY 2024-25 Capital Budget, and the FY 2025-29 Capital Investment Plan, including budget principles, budget highlights, budget summary, budget changes, allocation of personnel, budget CCA comparison, and proposed Board Approval of Resolution No. 2024-03.

There were no public comments on Item No. 5.

Following Committee questions and comments, the following action was taken:

Motioned by Chair McCann and seconded by Director Aguirre to Recommend Board Approval of Resolution No. 2024-03, adopting the FY 2024-2025 Operating Budget, the FY 2024-2025 Capital Budget, and the FY 2025-2029 Capital Investment Plan. The motion carried unanimously by the following vote:

AYES: Chair McCann, Aguirre and Director Yamane
NOES: None
ABSTAINED: None
ABSENT: None

Committee Member Announcements

Committee Members expressed appreciation to Mayor McCann for hosting the FRMC Committee meeting at the Chula Vista Council Chambers and reported on various events taking place in the

member jurisdictions. Mayor McCann announced that the FRMC Committee meeting in July would be dark.

ADJOURNMENT

The Finance and Risk Management Committee meeting was adjourned at 3:50 p.m. to the next Finance and Risk Management Committee meeting scheduled on Thursday, August 15, 2024.

Sandra Vences, Assistant Clerk of the Board



SAN DIEGO COMMUNITY POWER Staff Report – Item 2

To: San Diego Community Power Finance Risk Management Committee
From: Eric W. Washington, Chief Financial Officer
Via: Karin Burns, Chief Executive Officer
Subject: Treasurer's Report for Fiscal Year Ending June 30, 2024
Date: September 19, 2024

RECOMMENDATION

Receive and File Treasurer's Report for Fiscal Year Ending June 30, 2024.

BACKGROUND

San Diego Community Power (Community Power) maintains its accounting records on a full accrual basis in accordance with Generally Accepted Accounting Principles (GAAP) as applicable to governmental enterprise funds.

Community Power has prepared its year-to-date financial statements for the twelve-month period ended June 30, 2024, along with budgetary comparisons.

Community Power additionally reports monthly metrics during its Board meetings as part of its Update on Back-Office Operations. As part of the Treasurer's Report, certain key metrics related to risk are presented during Financial and Risk Management Committee (FRMC) meetings.

On February 22, 2024, the Community Power Board of Directors (Board) approved a mid-year budget amendment for Fiscal Year 2023-24 that included net operating revenues of \$1,304,274,067, total expenses of \$1,071,601,284, and a resulting net position of \$232,672,783. Given that the Board approval occurred on February 22, 2024, the review of the Treasurer's Report for period ending April 30, 2024, and reports for the remaining fiscal year will include a comparison against the mid-year budget amendment adopted by the Board.

ANALYSIS AND DISCUSSION

Actual financial results for the Fiscal Year End 6/30/24: \$1.244 billion in net operating revenues were reported compared to \$1.304 billion budgeted for the period. \$1.066 billion in total expenses were reported (including \$1.033 billion in energy costs) compared to

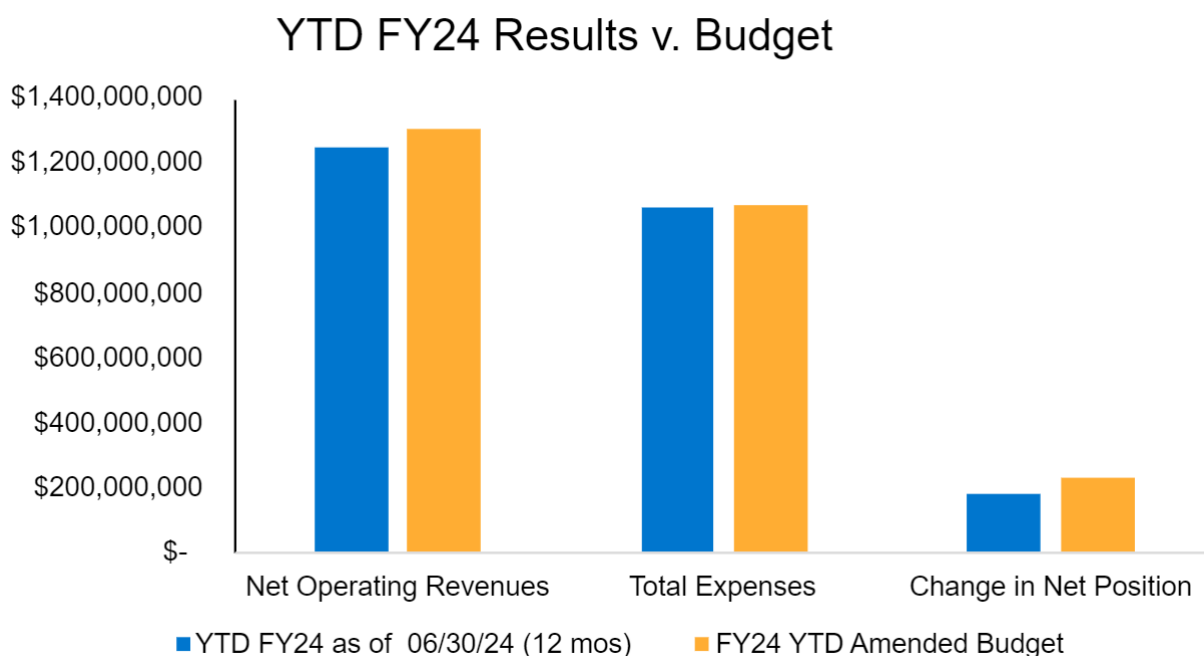
\$1.071 billion budgeted for the period (including \$1.020 billion budgeted for energy costs). After expenses, Community Power's change in net position of \$178.7 million was reported Fiscal Year End 2023-24. The following is a summary of the actual results compared to the Fiscal Year 2023-24 Amended Budget.

Table 1: Budget Comparison Versus Actual Result

Budget Comparison					
	YTD FY24 as of 06/30/24 (12 mos)	FY24 YTD Amended Budget	Budget Variance (\$)	Budget (%)	
Net Operating Revenues	\$ 1,244,325,827	\$ 1,304,274,067	\$ (59,948,240)	95%	
Total Expenses	\$ 1,065,625,201	\$ 1,071,601,284	\$ (5,976,083)	99%	
Change in Net Position	\$ 178,700,626	\$ 232,672,783	\$ (53,972,157)	-23%	

- Net operating revenues finished \$59.95 million (or 5.0 percentage points) under the budget primarily due to lower-than-expected customer load correlated with cooler weather in the summer months of calendar year 2024.
- Total expenses finished \$5.98 million (or 1.0 percentage points) under the budget similarly due to lower-than-expected customer load correlated with the cooler weather in the summer months of calendar year 2024 and to investment income earned on Community Power's cash reserves. These savings were partially offset by higher-than expected energy costs.

Figure 1: Proforma versus Actual Results



For the twelve-month Fiscal Year Ending 6/30/24, Community Power contributed \$178,700,626 to its net position compared to the expected contribution of \$232,672,783

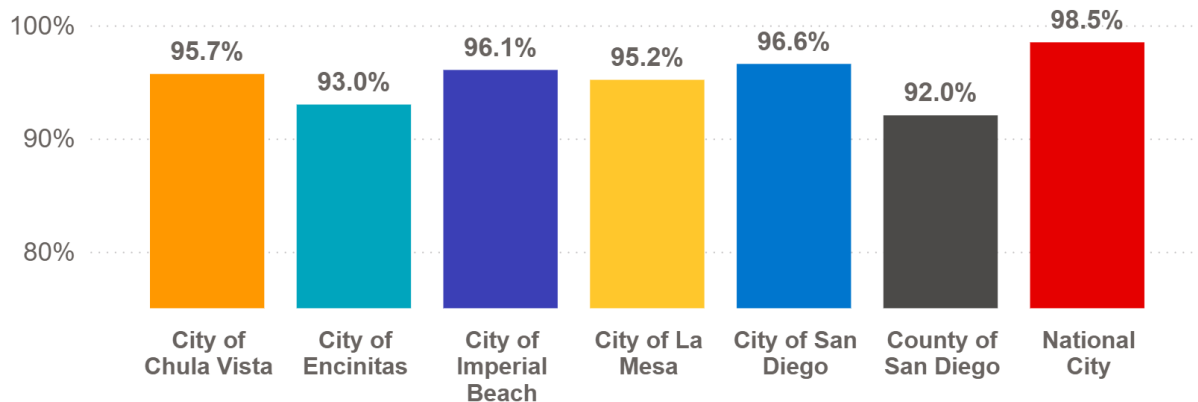
per the Fiscal Year 2023-24 amended budget. Total Community Power reserves at the Fiscal Year End were \$369,226,921 in unrestricted cash. Total access to liquidity was \$412,294,943, including availability under the line of credit. Community Power had a total Fiscal Year 2023-24 reserve target of \$524,984,866, which is equivalent to 180-days of total operating expenses as set in Community Power's Reserve Policy and Strategic Goals.

As a reminder, the financial statements in Community Power's Treasurer's Reports are issued as a compilation. Certified public accountants generally issue three levels of financial statements: audit, review and compilation. Community Power expects to review preliminary audited financials for the same period Fiscal Year Ending 6/30/24 with the FRMC in October 2024.



Figure 2: Participation Rates as of 9/11/2024

Participation by Jurisdiction



Jurisdiction	Service Option Default	Eligible Accounts	Enrolled Accounts	Participation Rate
City of Chula Vista	PowerOn	98,859	94,606	95.7%
City of Encinitas	Power100	28,603	26,600	93.0%
City of Imperial Beach	PowerOn	10,974	10,541	96.1%
City of La Mesa	PowerOn	29,526	28,103	95.2%
City of San Diego	PowerOn	624,749	603,423	96.6%
County of San Diego	PowerOn	190,553	175,391	92.0%
National City	PowerOn	19,599	19,304	98.5%
Total		1,002,863	957,968	95.5%

The participation rate for Community Power reflects full enrollment of current member agencies. We are reporting on the number of enrolled accounts and eligible accounts associated with all member agencies on a rolling basis as of the reporting month.

Staff are also presenting the state of Community Power Arrearages related to financial risk for FRMC consideration and for regular review. Additional metrics can be added by request. The below arrearage data includes Community Power's Receivables aged 120+ Days as of 9/11/2024.

Figure 3: State of Community Power Arrearages as of 9/11/2024

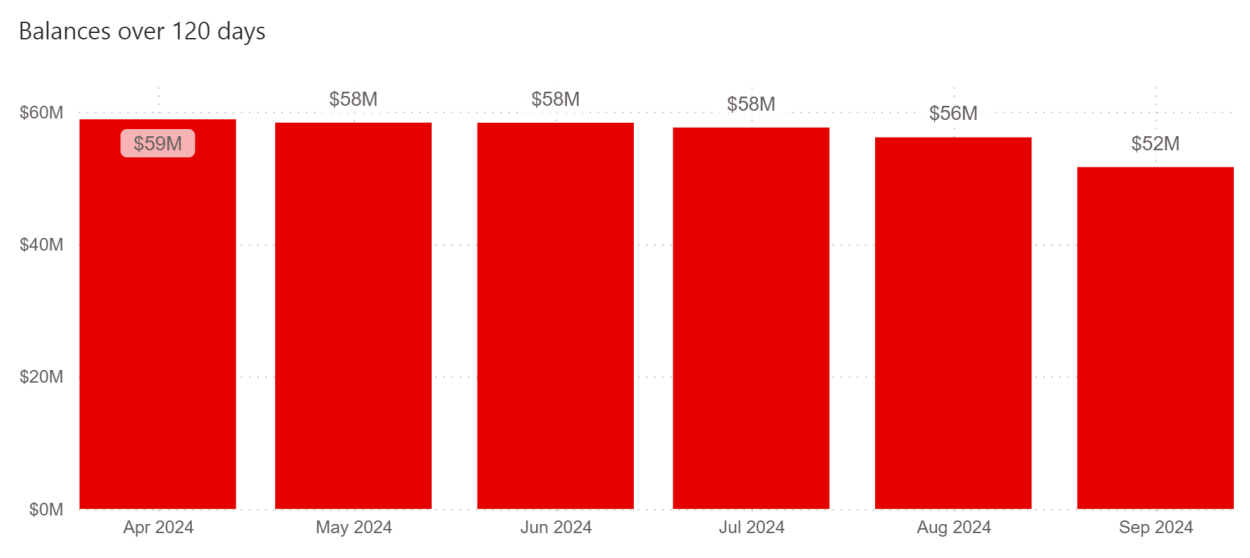
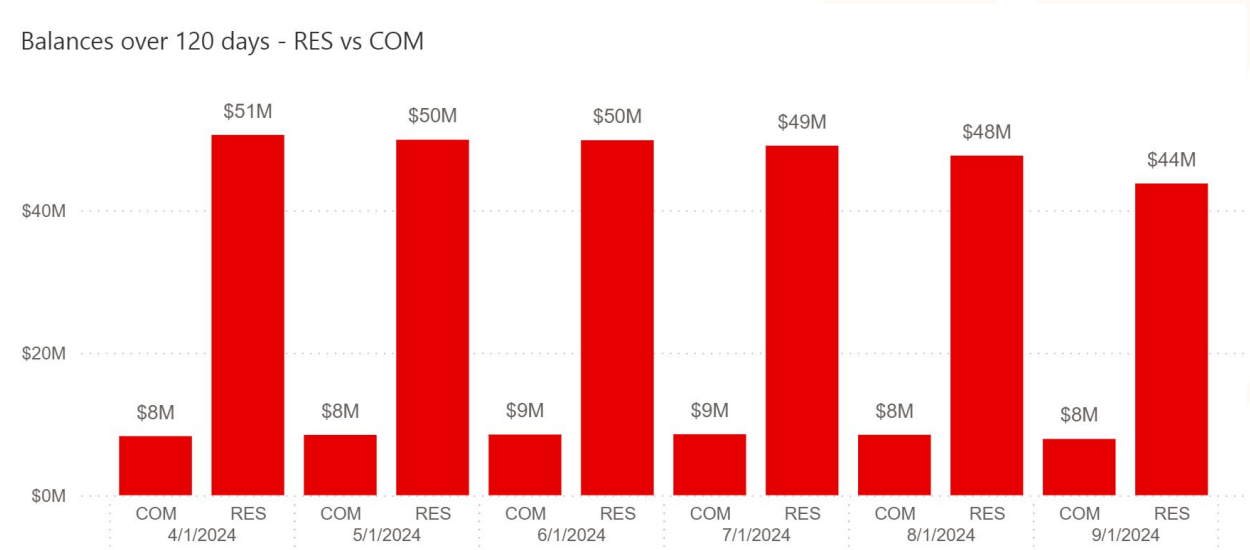


Figure 4: State of Community Power Arrearages Residential vs Commercial as of 9/11/2024



COMMITTEE REVIEW

N/A

FISCAL IMPACT

N/A

ATTACHMENTS

Attachment A: 2024 Year-to-Date Period Ended June 30, 2024, Financial Statements



ACCOUNTANTS' COMPILATION REPORT

Management
San Diego Community Power

Management is responsible for the accompanying financial statements of San Diego Community Power (a California Joint Powers Authority) which comprise the statement of net position as of June 30, 2024, and the related statement of revenues, expenses, and changes in net position, and the statement of cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the accompanying statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, conclusion, nor provide any assurance on these financial statements.

Management has elected to omit substantially all of the note disclosures required by accounting principles generally accepted in the United States of America in these interim financial statements. San Diego Community Power's annual audited financial statements include the note disclosures omitted from these interim statements. If the omitted disclosures were included in these financial statements, they might influence the user's conclusions about the Authority's financial position, results of operations, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about such matters.

We are not independent with respect to the Authority because we performed certain accounting services that impaired our independence.

Maher Accountancy

San Rafael, CA
August 8, 2024

SAN DIEGO COMMUNITY POWER
STATEMENT OF NET POSITION
As of June 30, 2024

ASSETS

Current assets	
Cash and cash equivalents - unrestricted	\$ 299,794,943
Cash and cash equivalents - restricted	500,000
Accounts receivable, net of allowance	103,512,165
Accrued revenue	67,144,547
Prepaid expenses	35,018,400
Other receivables	5,888,858
Deposits	12,162,199
Total current assets	<u>524,021,112</u>
Noncurrent assets	
Cash and cash equivalents - restricted	1,147,000
Lease asset, net of amortization	1,135,059
Capital assets, net of depreciation	123,784
Total noncurrent assets	<u>2,405,843</u>
Total assets	<u>526,426,955</u>

LIABILITIES

Current liabilities	
Accrued cost of electricity	144,552,901
Accounts payable	4,726,427
Other accrued liabilities	1,422,404
State surcharges payable	528,942
Deposits - energy suppliers	4,055,000
Lease liability	964,404
Total current liabilities	<u>156,250,078</u>
Noncurrent liabilities	
Supplier security deposits	624,000
Lease liability	325,956
Total noncurrent liabilities	<u>949,956</u>
Total liabilities	<u>157,200,034</u>

NET POSITION

Restricted for security collateral	1,647,000
Unrestricted	367,579,921
Total net position	<u><u>\$ 369,226,921</u></u>

SAN DIEGO COMMUNITY POWER
STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET POSITION
Year Ended June 30, 2024

OPERATING REVENUES

Electricity sales, net	\$ 1,243,068,892
Grant revenue	983,500
Other income	10,598,252
Total operating revenues	<u>1,254,650,644</u>

OPERATING EXPENSES

Cost of electricity	1,043,990,061
Contract services	19,750,534
Staff compensation	11,399,388
Other operating expenses	3,261,424
Depreciation and amortization	727,567
Total operating expenses	<u>1,079,128,974</u>
Operating income	<u>175,521,670</u>

NON-OPERATING REVENUES (EXPENSES)

Interest income	9,384,873
Interest and financing expense	(1,691,953)
Nonoperating revenues (expenses), net	<u>7,692,920</u>

CHANGE IN NET POSITION

	183,214,590
Net position at beginning of year	186,012,331
Net position at end of year	<u><u>\$ 369,226,921</u></u>

SAN DIEGO COMMUNITY POWER
STATEMENT OF CASH FLOWS
Year Ended June 30, 2024

CASH FLOWS FROM OPERATING ACTIVITIES

Receipts from customers	\$ 1,264,068,317
Receipts of supplier security deposits	37,126,179
Receipts from wholesale sales	14,984,889
Other operating receipts	11,581,752
Payments to suppliers for electricity	(1,013,786,468)
Payments for goods and services	(21,749,019)
Payments of staff compensation and benefits	(11,066,586)
Payments for deposits and collateral	(15,783,943)
Payments of state surcharges	(2,321,269)
Net cash provided by operating activities	<u>263,053,852</u>

CASH FLOWS FROM NON-CAPITAL FINANCING ACTIVITIES

Principal payments - bank note	(35,730,000)
Interest and related expense payments	(2,190,907)
Net cash provided (used) by non-capital financing activities	<u>(37,920,907)</u>

CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES

Payments of lease liability	(604,328)
Payments to acquire capital assets	(71,550)
Net cash (used) by capital and related financing activities	<u>(675,878)</u>

CASH FLOWS FROM INVESTING ACTIVITIES

Interest income received	<u>9,153,996</u>
Net change in cash and cash equivalents	233,611,063
Cash and cash equivalents at beginning of year	67,830,880
Cash and cash equivalents at end of year	<u>\$ 301,441,943</u>

Reconciliation to the Statement of Net Position

Cash and cash equivalents (unrestricted)	\$ 299,794,943
Restricted cash - current	500,000
Restricted cash - noncurrent	1,147,000
Cash and cash equivalents	<u>\$ 301,441,943</u>

SAN DIEGO COMMUNITY POWER
STATEMENT OF CASH FLOWS (continued)
Year Ended June 30, 2024

**RECONCILIATION OF OPERATING INCOME TO NET
CASH PROVIDED BY OPERATING ACTIVITIES**

Operating income	\$ 175,521,670
Adjustments to reconcile operating income to net cash provided by operating activities	
Depreciation and amortization expense	727,567
(Increase) decrease in:	
Accounts receivable, net	7,001,566
Accrued revenue	11,648,237
Prepaid expenses	(4,490,902)
Other receivables	(5,424,266)
Deposits	5,494,151
Increase (decrease) in:	
Accrued cost of electricity	67,207,558
Accounts payable	4,287,161
Other accrued liabilities	(2,372,243)
State surcharges payable	28,353
Deposits - energy suppliers	3,425,000
Net cash provided by operating activities	<u><u>\$ 263,053,852</u></u>



ACCOUNTANTS' COMPILATION REPORT

Board of Directors
San Diego Community Power

Management is responsible for the accompanying special purpose operating fund budgetary comparison schedule of San Diego Community Power (SDCP), a California Joint Powers Authority, for the year ended June 30, 2024, and for determining that the budgetary basis of accounting is an acceptable financial reporting framework. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the accompanying statement nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, a conclusion, nor provide any assurance on this special purpose budgetary comparison statement.

The special purpose statement is prepared in accordance with the budgetary basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America. This report is intended for the information of the Board of Directors of SDCP.

Management has elected to omit substantially all of the note disclosures required by accounting principles generally accepted in the United States of America in these interim financial statements. SDCP's annual audited financial statements will include the note disclosures omitted from these interim statements. If the omitted disclosures were included in these financial statements, they might influence the user's conclusions about the Authority's financial position, results of operations, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about such matters.

We are not independent with respect to SDCP because we performed certain accounting services that impaired our independence.

Maher Accountancy

San Rafael, CA
August 8, 2024

**SAN DIEGO COMMUNITY POWER
OPERATING FUND
BUDGETARY COMPARISON SCHEDULE
Year Ended June 30, 2024**

	2023/24 YTD Amended Budget	2023/24 YTD Actual	2023/24 YTD Amended Budget Variance (Under) Over	2023/24 YTD Actual/ Amended Budget %	2023/24 Annual Amended Budget	2023/24 Amended Budget Remaining
REVENUES AND OTHER SOURCES						
Gross Ratepayer Revenues	1,365,732,007	\$ 1,261,779,464	(103,952,543)	92%	\$ 1,365,732,007	\$ 103,952,543
Less: Uncollectible Customer Accounts	(61,457,940)	(18,710,572)	42,747,368	30%	(61,457,940)	(42,747,368)
Grant Revenue	-	983,500	983,500		-	(983,500)
Other Income		273,435	273,435		-	(273,435)
Total Revenues and Other Sources	<u>1,304,274,067</u>	<u>1,244,325,827</u>	<u>(59,948,240)</u>		<u>1,304,274,067</u>	<u>59,948,240</u>
OPERATING EXPENSES						
Cost of Energy	1,020,844,552	1,033,665,244	12,820,692	101%	1,020,844,552	(12,820,692)
Professional Services and Consultants	22,250,657	18,341,191	(3,909,466)	82%	22,250,657	3,909,466
Personnel Costs	11,603,394	11,399,388	(204,006)	98%	11,603,394	204,006
Marketing and Outreach	2,925,978	1,951,399	(974,579)	67%	2,925,978	974,579
General and Administration	6,812,564	2,478,220	(4,334,344)	36%	6,812,564	4,334,344
Programs	115,500	847,719	732,219	734%	115,500	(732,219)
Total Operating Expenses	<u>1,064,552,645</u>	<u>1,068,683,161</u>	<u>4,130,516</u>		<u>1,064,552,645</u>	<u>(4,130,516)</u>
Operating Income (Loss)	<u>239,721,422</u>	<u>175,642,666</u>	<u>(64,078,756)</u>		<u>239,721,422</u>	<u>64,078,756</u>
NON-OPERATING REVENUES (EXPENSES)						
Investment Income	-	9,384,873	9,384,873		-	(9,384,873)
Interest and Related Expenses	(2,393,639)	(1,671,913)	721,726	70%	(2,393,639)	(721,726)
Transfer to Capital Investment Program	(4,655,000)	(4,655,000)	-	100%	(4,655,000)	-
Total Non-Operating Revenues (Expenses)	<u>(7,048,639)</u>	<u>3,057,960</u>	<u>10,106,599</u>		<u>(7,048,639)</u>	<u>(10,106,599)</u>
NET CHANGE	<u>\$ 232,672,783</u>	<u>\$ 178,700,626</u>	<u>\$ (53,972,157)</u>		<u>\$ 232,672,783</u>	<u>\$ 53,972,157</u>



SAN DIEGO COMMUNITY POWER Staff Report – Item 3

To: San Diego Community Power Finance and Risk Management Committee
From: Eric Washington, Chief Financial Officer
Via: Karin Burns, Chief Executive Officer
Subject: Presentation and Update on Clean Energy Prepayment Financing
Date: September 19, 2024

RECOMMENDATION

Receive and File Presentation and Update on Clean Energy Prepayment Financing.

BACKGROUND

On October 1, 2019, the founding members of San Diego Community Power (Community Power) adopted the Joint Powers Agreement (JPA) which was amended and restated on December 16, 2021.

Section 3.2.12 of the JPA specifies that Community Power Board of Directors (Board) may at its discretion adopt rules, regulations, policies, bylaws, and procedures governing the operation of Community Power.

Further, section 3.2.7 of the JPA states that Community Power at the discretion of the Board may incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing powers authorized by law pursuant to Government Code Section 53850 et seq. and authority under the Act.

Finally, section 3.2.8 of the JPA states that Community Power at the discretion of the Board may issue revenue bonds and other forms of indebtedness and per section 3.2.9 may apply for, accept, and receive all licenses, permits, grants, loans, or other aids from any federal, state, or local public agency.

Municipal electric, gas utilities, and tax-exempt entities such as community choice aggregators (CCAs) in the United States (US) can prepay for a supply of electricity or natural gas from a taxable (corporate) entity and fund that prepayment with tax-exempt

municipal bonds. These entities must sell that commodity to retail end-users that reside within their traditional service area.

Prepayment transactions are legal and codified in US Tax Law. Since the first prepayments of natural gas were done in the early 1990's, the Internal Revenue Service (IRS) issued rules allowing tax-exempt prepayments and Congress enacted legislation specifically allowing the transactions (National Energy Policy Act of 2005; Section 1327).

Since then, over 90 municipal prepayment transactions totaling over \$50 billion have been completed in the US – over 95% of these were for natural gas since natural gas is easier to “prepay” because the commodity is homogenous and is easy to store.

Prepayments have saved utility ratepayers (natural gas, electricity from gas fired power plants and energy from renewable power projects) billions of dollars in reduced rates and energy charges and are anticipated to continue to do so over the 30-year life of the transactions.

On November 7, 2023, Community Power issued a request for bids from qualified and experienced firms to provide a full range of municipal advisory services necessary for Community Power to evaluate, structure, and execute prepayment transactions. Shortly thereafter, on December 18, 2023, Community Power entered into an agreement with PFM Financial Advisors LLC (PFM) to provide these services.

Next, on February 15, 2024, the Finance and Risk Management Committee received a Presentation on Clean Energy Prepayment Financing which included a discussion about Community Power's interest in pursuing a prepayment transaction given the potential savings it can generate. Subsequently, on February 22, 2024, the Board received a similar Presentation on Clean Energy Prepayment Financing.

Then, on April 19, 2024, Community Power issued two requests for proposals (RFPs) for the prepaid transaction for legal services related to bond, tax and/or disclosure counsel and for underwriter services to structure an energy prepayment program. These services are critical to completing a prepayment transaction.

On August 22, 2024, Community Power Board of Directors approved Chapman and Cutler LLP to facilitate in the capacity of Disclosure Counsel services.

Through the RFPs issued on April 19, 2024, Community Power also recommended Orrick, Herrington & Sutcliffe LLP to facilitate in the capacity of Tax and Bond Counsel services. Agreement will be with the Bond Issuer.

ANALYSIS AND DISCUSSION

Staff are providing an update and presentation to the Board on the current timeline for a potential clean prepayment financing. Below is a draft timeline, subject to change.

- **Nov 7, 2023:** RFP was issued for Municipal Financial Advisor (MFA)
- **Dec 28, 2023:** PFM was selected as MFA
- **Feb 15, 2024:** FRMC Prepaid Financing Presentation
- **Feb 22, 2024:** Board Presentation Prepaid Financing Presentation
- **Apr 19, 2024:** RFP issued for underwriter and legal services (bond, tax, disclosure)
- **Aug 22, 2024:** Legal counsel agreement with Chapman & Cutler for disclosure services approved
- **Sep 19, 2024:** FRMC – Presentation and potential recommendation for Board approval of Resolution for Bond Issuer
- **Sep 26, 2024:** Board – Presentation and potential approval of Resolution for Bond Issuer
- **Oct 17, 2024:** FRMC – Presentation and potential recommendation for Board approval on Resolution to authorize documents
- **Oct 24, 2024:** Board – Presentation and potential recommendation for Board approval on Resolution to authorize documents
- **Nov 21, 2024:** Execute prepaid agreement
- **Dec 5, 2024:** Closing

COMMITTEE REVIEW

N/A

FISCAL IMPACT

N/A

ATTACHMENTS

N/A

SAN DIEGO COMMUNITY POWER

Staff Report – Item 4

To: San Diego Community Power Finance and Risk Management Committee

From: Eric Washington, Chief Financial Officer

Via: Karin Burns, Chief Executive Officer

Subject: Recommend Approval of Bond Issuer for Energy Prepayment Transaction

Date: September 19, 2024

RECOMMENDATION

Approve selection of California Community Choice Financing Authority (CCCFA), a joint powers authority and a public entity of the State of California established pursuant to the provisions of the Joint Exercise of Powers Act, as the Bond Issuer for potential San Diego Community Power's (Community Power) energy prepayment financing transactions and authorizing Community Power to join the CCCFA as an Associate Member.

BACKGROUND

As part of an energy prepayment financing transaction, Community Power must work with a Bond Issuer to directly issue prepaid bonds. Specifically, the Bond Issuer uses the bond proceeds to pay the prepaid supplier in exchange for a long-term supply of energy. The Bond Issuer then would potentially deliver energy to Community Power in exchange for prepaid energy payments. The Bond Issuer then pays the bond investors.

The California Community Choice Financing Authority (CCCFA) is a Bond Issuer that was established in 2021 with the goal to reduce the cost of power purchases for member community choice aggregators (CCAs) through pre-payment structures. The founding members of CCCFA include Central Coast Community Energy, Clean Power Alliance, Ava Community Energy (formerly East Bay Community Energy), MCE, and Silicon Valley Clean Energy.

CCCFA's joint powers agreement (JPA) specifies that pursuant to Section 6508.1 of the Government Code, no debt, liability or obligation of CCCFA shall be a debt, liability or obligation of a CCCFA member. Any bonds issued by CCCFA do not constitute general obligations of CCCFA and the costs and expenses of each prepaid transaction are allocated solely to the members participating in such prepaid transaction. Community Power would not be liable for any other member's prepaid-related obligations.

CCCFA, as a public joint powers agency (JPA), can issue tax-exempt bonds and enter a 30-year, non-recourse, tax-exempt prepay transaction with a taxable, prepaid supplier of energy. CCCFA is a conduit agency to issue bonds; it is not intended for joint procurement. Prepayment transactions are codified in the US Tax law, and Congress enacted legislation specifically allowing for such transactions as part of the National Energy Policy Act of 2005. CCCFA will take advantage of this structure to increase the amount, and reduce the cost, of clean energy on the California grid, combating climate change and fulfilling customers' needs for non-polluting resources.

On July 25, 2024, CCCFA also adopted membership criteria that defines eligibility to join either as an Associate Member or as a Founding Member. Under this criteria, CCCFA states that to join as a Founding Member, an entity must have either:

- Received energy deliveries through a CCCFA prepay transaction for a minimum of one year, or
- Employ a Director/Manager-level staff member with at least one year's direct oversight of prepay issuances and prepay operations while employed by a Founding Member CCA.



ANALYSIS AND DISCUSSION

CCCFA is a Joint Powers Authority which can help member CCAs save up to 10% or more on power purchase agreements, helping reduce costs for ratepayers and increase available funding for local programs. The Board of CCCFA consists of one director representing each member agency. A majority vote is sufficient to act on most items before the Board, with a 2/3 majority vote required for some actions including the addition of more member agencies, terminating a Founding or Associate Member, terminating the JPA, or amending specific portions of the JPA.

CCCFA has no permanent staff. A “working group” consisting of staff from Founding Member CCAs performs or oversees essential operating activities. CCCFA also contracts with a small number of professional service providers, such as an accounting firm to prepare audited financial statements and an auditor to perform the annual financial audit. A Community Power staff member would be expected to participate in the “working group”, with a time requirement estimated to be on average five hours per month. Time served by Community Power staff on the “working group” is reimbursable to Community Power at hourly rate approximately equal to Community Power’s fully loaded staffing cost. CCCFA adopts an annual budget covering operating expenses, which are allocated equally to each member. CCCFA has expressed an intent to keep operating costs and overhead low to maximize prepay savings for its members which, in general, is consistent with Community Power’s objectives. Consistent with this goal, the JPA specifies that CCCFA will not have the power to and will not enter any retirement contract with any public retirement system for any reason.

Per CCCFA’s membership criteria, Community Power only has the option to join as an Associate Member given that Community Power has neither received energy deliveries through a CCCFA prepay transaction nor employed a Director/Manager-level staff member with at least one year’s direct oversight of prepay issuances and prepay operations while employed by a Founding Member CCA. Community Power intends on requesting membership as a Founding Member in one year from a potential clean prepayment financing transaction completing, given the potential volume of transactions that Community Power might undertake compared to other Founding Members.

Joining CCCFA as an Associate Member requires the following steps:

- Community Power to adopt a Resolution of Board authorizing Community Power to join CCCFA.
- Community Power to execute CCCFA’s Joint Powers Agreement.
- Community Power to request that CCCFA accept Community Power joining CCCFA as an Associate Member.
- CCCFA’s Board to approve Community Power’s membership request with a 2/3rd vote of the CCCFA Board.
- Community Power to pay a one-time \$50,000 membership fee and agrees to pay, on an ongoing basis, COMMUNITY POWER’s share of CCCFA’s annual operating costs, estimated at \$20,000.

Either Community Power CEO or their delegation would be Community Power's representative on the CCCFA Board. Current members of the CCCFA Board include three CEOs and one Director of Finance.

Through SDCP's recommendation from the RFPs issued on April 19, 2024, for Tax and Bond Counsel services, CCCFA will also contract directly with Orrick, Herrington & Sutcliffe LLP.

COMMITTEE REVIEW

N/A

FISCAL IMPACT

The costs of joining CCCFA will comprise a one-time up-front \$50,000 membership fee as well as an equal share (one-fifth, given current CCCFA membership) of ongoing general and administrative costs. Annual ongoing costs are estimated at \$20,000 per member. The \$50,000 one-time joining fee is intended to represent Community Power's share of CCCFA's start-up costs and is approximately equal to the initial amount contributed by the other member agencies.

ATTACHMENTS

Attachment A: Resolution No. 2024-__, Approving San Diego Community Power Joining California Community Choice Financing Authority (CCCFA) as an Associate Member and to Approve the Entry into a Joint Powers Agreement Related Thereto and Delegating Authority to the San Diego Community Power Authorized Representatives to Execute and Deliver Such Joint Powers Agreement

RESOLUTION NO. 2024-__

**RESOLUTION OF THE BOARD OF DIRECTORS OF SAN DIEGO COMMUNITY
POWER TO APPROVE SAN DIEGO COMMUNITY POWER JOINING CALIFORNIA
COMMUNITY CHOICE FINANCING AUTHORITY (CCCFA) AS AN ASSOCIATE
MEMBER AND TO APPROVE THE ENTRY INTO A JOINT POWERS AGREEMENT
RELATED THERETO AND DELEGATING AUTHORITY TO THE SAN DIEGO
COMMUNITY POWER AUTHORIZED REPRESENTATIVES TO EXECUTE AND
DELIVER SUCH JOINT POWERS AGREEMENT**

**THE BOARD OF DIRECTORS OF SAN DIEGO COMMUNITY POWER DOES
HEREBY FIND, RESOLVE, AND ORDER AS FOLLOWS:**

WHEREAS, SAN DIEGO COMMUNITY POWER (“San Diego Community Power” or “SDCP”) was formed on October 1, 2019 under the provisions of the Joint Exercise Powers Act of the State of California, Government Code section 6500 *et seq.* (the “JPA Law”);

WHEREAS, San Diego Community Power is duly organized, validly existing, and in good standing under and by virtue of the laws of the State of California, is duly authorized to transact business, having obtained all necessary filings, governmental licenses and approvals in the State of California, and has the full power and authority to own its properties and to transact the business in which it is presently engaged or presently proposes to engage;

WHEREAS, San Diego Community Power is a community choice aggregator (as defined in Section 331.1 of the Public Utilities Code of the State of California (the “Public Utilities Code”), and is a public agency (as defined in the JPA Law) that has implemented a CCA program pursuant to Section 366.2 of the Public Utilities Code, and possesses the power to purchase and sell electric energy and enter into related contracts for such purposes;

WHEREAS, San Diego Community Power, acting pursuant to the JPA Law, may enter into a joint exercise of powers agreement with one or more other public agencies pursuant to which such contracting parties may jointly exercise any power common to them and, pursuant to Government Code Section 6588, to exercise certain additional powers;

WHEREAS, the California Community Choice Financing Authority (“CCCFA”) is a joint exercise of powers agency established under JPA Law and a Joint Powers Agreement (the “JPA Agreement”) among various California Community Choice Aggregators (“CCAs”) for the purpose of undertaking the financing and refinancing of energy prepayments that can be financed with tax advantaged bonds on behalf of one or more of its members by, among other things, issuing or incurring bonds and entering into related contracts;

WHEREAS, San Diego Community Power is considering an energy prepayment transaction and using CCCFA as the issuer of bonds for the purpose of financing such transaction, and in connection therewith has determined that it is in the best interests of San Diego Community Power to join CCCFA as an Associate Member (as defined in the JPA Agreement hereinafter defined) and to execute and deliver the JPA Agreement in order to establish such membership;

WHEREAS, there has been submitted to this meeting (i) a copy of the JPA Agreement, and (ii) the by-laws of CCCFA as in effect on the date hereof (the “**By-Laws**”);

WHEREAS, CCCFA has established a new membership entry fee of \$50,000 for a new associate member’s portion of organization, planning, and other costs, in addition to each member’s equal share of general and administrative costs as determined by the CCCFA and a transaction fee of \$20,000 to cover the “Prepayment Project” costs as defined in Section 1.11 of the CCCFA JPA Agreement;

WHEREAS, under the JPA Law and the JPA Agreement, CCCFA is a public entity separate and apart from the parties to the JPA Agreement, and the debts, liabilities, and obligations of the CCCFA will not constitute debts, liabilities, or obligations of San Diego Community Power.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED as follows:

Section 1. AUTHORIZED REPRESENTATIVES. The following named individuals are the authorized representatives of San Diego Community Power with the respective titles specified below (collectively referred to as “**Authorized Representatives**” and individually referred to as an “**Authorized Representative**”):

<u>NAMES</u>	<u>TITLES</u>
Joe LaCava	Chair of the Board
Karin Burns	Chief Executive Officer
Eric Washington	Chief Financial Officer
Jack Clark	Chief Operating Officer
Veera Tyagi	General Counsel

Section 2. AUTHORIZATION TO JOIN CCCFA AS AN ASSOCIATE MEMBER. The Board of Directors of San Diego Community Power does hereby authorize and approve San Diego Community Power joining CCCFA as an Associate Member, subject to approval by CCCFA by a majority vote of the Board of Directors of CCCFA as required by the JPA Agreement.

Section 3. JOINT POWERS AGREEMENT AND BY-LAWS. The JPA Agreement, attached hereto as Exhibit A, and the By-Laws of CCCFA, attached hereto as Exhibit B, are hereby approved.

Section 4. ACTIONS AUTHORIZED. Any one of the Authorized Representatives is authorized and approved to (a) execute and deliver the JPA Agreement as an Associate Member, (b) pay any and all fees and costs and execute and deliver such other documents and agreements as may be required of an Associate Member under the terms of the JPA Agreement or the By-Laws, and (c) do and perform such other acts and things as any Authorized Representative may in his or her discretion deem reasonably necessary or proper in order comply with the terms and intent of the JPA Agreement and to carry into effect the provisions of this Resolution.

IT IS HEREBY FURTHER DETERMINED AND ORDERED that the Authorized Representatives are duly elected, appointed, or employed by or for San Diego Community

Power, as the case may be. This Resolution now stands of record on the books of San Diego Community Power, is in full force and effect, and has not been modified or revoked in any manner whatsoever.

IT IS HEREBY FURTHER DETERMINED AND ORDERED that any and all acts authorized pursuant to this Resolution and performed prior to the passage of this Resolution are hereby ratified and approved.

IT IS HEREBY FURTHER DETERMINED AND ORDERED that this Resolution shall take effect upon its passage, shall be continuing and shall remain in full force and effect unless and until expressly revoked by further resolution of the Board of Directors.

ADOPTED AND APPROVED this 26th day of September 2024.

By: _____
Joe LaCava, Chair of the Board of Directors

ATTEST:

Maricela Hernandez, Secretary to the Board of Directors

APPROVED AS TO FORM:

Veera Tyagi, General Counsel

EXHIBIT A

JOINT POWERS AGREEMENT

(see attached)

CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY JOINT POWERS AGREEMENT

This Joint Powers Agreement (this "Agreement") is made by and among those public agencies who are signatories to this Agreement, and those public agencies which may hereafter become signatories to this Agreement (all such parties, except those which have withdrawn as provided herein, are referred to herein as the "Members" and those parties initially executing this Agreement are referred to as the "Founding Members"), creating a separate joint powers agency, which is named "California Community Choice Financing Authority" ("CCCFA").

WITNESSETH

WHEREAS, each Member is a "community choice aggregator," as that term is defined in Section 331.1 of the Public Utilities Code of the State of California (the "Public Utilities Code"), having duly adopted, established and implemented a community choice aggregation program pursuant to Section 366.2 of the Public Utilities Code, with the authority to group retail electricity customers to solicit bids, broker, and contract for electricity and energy services for those customers, and to enter into agreements for services to facilitate the sale and purchase of electricity and other related services, and to study, promote, develop, conduct, operate and manage energy-related programs; and

WHEREAS, each Member is a "public agency," as that term is defined in Section 6500 of the Government Code of the State of California (the "Government Code"); and

WHEREAS, Chapter 5 of Division 7 of Title 1 of the Government Code, being Section 6500 and following (the "Act"), authorizes a joint exercise by two or more public agencies of any power which is common to each of them and the creation of an entity that is separate from the parties to the joint exercise of powers agreement; and

WHEREAS, it is to the mutual benefit of the Members and in the public interest that an agency by the name of the California Community Choice Financing Authority be created, by which the Members jointly exercise for their common benefit and for the purposes specified herein certain powers that they have in common or are otherwise provided for by applicable law, including but not limited to (i) the acquisition and operation of power supplies, resource adequacy and renewable attributes, and (ii) the provision of other energy services or programs which may be of benefit to one or more Members; and

WHEREAS, the Act conveys upon joint exercise of powers authorities certain additional powers, including but not limited to the power to issue revenue bonds and incur other evidences of indebtedness for such purposes as are specified in the Act; and

WHEREAS, CCCFA's purpose is to assist Members by undertaking the financing or refinancing of energy prepayments that can be financed with tax advantaged bonds on behalf of one or more of the Members by, among other things, issuing or incurring Bonds (as such term is defined herein) and entering into related contracts with Members.

NOW, THEREFORE, the Members, for and in consideration of the mutual promises and agreements herein contained, do hereby agree as follows:

Article I. DEFINITIONS

In addition to the other terms defined herein, the following terms, whether in the singular or in the plural, when used herein and initially capitalized, shall have the meanings specified throughout this Agreement.

Section 1.01 “Act” means Chapter 5 of Division 7 of Title 1 of the Government Code (Section 6500 *et seq.*), as supplemented and amended from time to time, including without limitation the Marks-Roos Local Bond Pooling Act of 1985.

Section 1.02 “Agreement” means this Joint Powers Agreement, as it may be supplemented and amended from time to time in accordance with the terms hereof.

Section 1.03 “Associate Member” means any Public CCA Agency that is a signatory to this Agreement and that has met the requirements of Section 3.02 below to become an Associate Member. The term “Associate Member” shall, however, exclude any Associate Member which shall have withdrawn or been excluded from CCCFA pursuant to Section 3.04 below.

Section 1.04 “Board” means the Board of Directors of CCCFA as established by this Agreement.

Section 1.05 “Bonds” means bonds, notes, commercial paper, installment purchase, lease purchase and similar agreements and certificates of participation therein, and any other evidences of indebtedness.

Section 1.06 “CCCFA” means the California Community Choice Financing Authority, the Joint Powers Authority established by this Agreement.

Section 1.07 “Director” means each Director duly appointed and serving on the Board as provided in Article IV of this Agreement.

Section 1.08 “Founding Member” means each of the Public CCA Agencies initially executing this Agreement, and any Public CCA Agency that becomes a Founding Member pursuant to Section 3.01 below. The term “Founding Member” shall, however, exclude any Founding Member which shall have withdrawn or been excluded from CCCFA pursuant to Section 3.04 below. The initial Founding Members are Central Coast Community Energy, East Bay Community Energy, Marin Clean Energy, and Silicon Valley Clean Energy.

Section 1.09 “Government Code” means the Government Code of the State of California.

Section 1.10 “Member” means a Founding Member or an Associate Member.

Section 1.11 “Prepayment Project” means, in connection with the financing or refinancing of energy prepayments that can be financed with tax advantaged bonds and other obligations: (i) the purchase and sale of electric energy and associated capacity and environmental attributes, (ii) the design, acquisition, maintenance, or operation of any Public Capital Improvement (as defined in the Act) or other facility or improvement, or the leasing thereof, (iii) the provision of working capital, and (iv) any other project, program, public capital improvement or purpose authorized by the Act or other law to be undertaken, financed, or refinanced by CCCFA, subject to CCCFA’s approval of an application from one or more Members for support of such project, program, public capital improvement or authorized purpose and in connection with the financing or refinancing of energy prepayments that can be financed with tax advantaged bonds and other obligations.

Section 1.12 “Prepayment Project Contract” means a contract among any Members and CCCFA in connection with the undertaking, financing or refinancing of a Prepayment Project by such Members and CCCFA in accordance with the terms of this Agreement.

Section 1.13 “Public CCA Agency” means any community choice aggregator, as such term is defined in Section 331.1 of the Public Utilities Code, that is a public agency, as such term is defined in the Act, which has implemented a CCA program pursuant to Section 366.2 of the Public Utilities Code.

Section 1.14 “Public Utilities Code” means the Public Utilities Code of the State of California.

Article II. FORMATION OF AUTHORITY

Section 2.01 Creation of CCCFA. Pursuant to the Act, there is hereby created a public entity, to be known as the “California Community Choice Financing Authority,” which shall be a public entity separate and apart from its Members. The debts, liabilities and obligations of CCCFA shall not constitute debt, liabilities or obligations of any Member.

Section 2.02 Purpose. This Agreement is made, and CCCFA is being established, pursuant to the Act to provide for the joint exercise of powers common to the parties hereto to assist the Members in financing or refinancing energy prepayments that can be financed with tax advantaged bonds and other obligations on behalf of one or more of the Members, including by undertaking, financing or refinancing Prepayment Projects on behalf of one or more of the Members and/or CCCFA, all as further described in Section 2.03 hereof. CCCFA will fulfill the purposes of this Agreement by, among other things, undertaking the sale and issuance or incurrence of Bonds to finance or refinance Prepayment Projects on behalf of one or more of the Members and/or CCCFA in accordance with the Act. CCCFA is not being formed for the purposes of providing municipal services within the meaning of Section 6503.6 or Section 6503.8 of the Act.

Section 2.03 Powers. CCCFA, in its own name, shall have any and all power to undertake Prepayment Projects on behalf of one or more of the Members and/or CCCFA, and to finance or refinance such Prepayment Projects through the sale and issuance or incurring of Bonds for the purposes set forth in Section 2.02 hereof. CCCFA is empowered to exercise any and all common powers of the Members, and any other powers provided to it by any applicable laws, beneficial for the issuance or incurrence from time to time of such Bonds pursuant to Article VII hereof. Without limiting the generality of the foregoing, CCCFA, in its own name, shall have the power:

- (a) to acquire, purchase, finance, operate, maintain, utilize and/or dispose of one or more Prepayment Projects and any facilities, programs or other authorized costs relating thereto;
- (b) to make and enter contracts (including without limitation interest rate, commodity, basis and similar hedging contracts intended to hedge payment, rate, cost or similar exposure);
- (c) to employ agents and employees;
- (d) to acquire, manage, maintain or operate any building, works or improvements;
- (e) to acquire, hold, lease or dispose of property;
- (f) to incur debts (including without limitation through the issuance or incurrence of Bonds), liabilities or obligations (which shall not constitute debts, liabilities, or obligations of any of the Members);
- (g) to sue and be sued in its own name;
- (h) to receive gifts, contributions and donations of real or personal property, funds, services and other forms of assistance from any source;
- (i) to receive, collect, invest and disburse moneys;
- (j) to apply for, accept, and receive all licenses, permits, grants, loans or other aids from any federal, state, or local public agency;
- (k) to make and enter into service agreements relating to the provision of services necessary to plan, implement, operate and administer energy-related programs;
- (l) to defend, hold harmless, and indemnify, to the fullest extent permitted by law, each Member from any liability, claims, suits, or other actions;

- (m) to exercise any other power and take any other action permitted by law to accomplish the purposes of this Agreement.

Such powers shall be exercised by CCCFA subject only to such restrictions upon the manner of exercising such power as are imposed upon Silicon Valley Clean Energy in the exercise of similar powers, as provided in Section 6509 of the Act, and, should Silicon Valley Clean Energy withdraw or be excluded from this Agreement pursuant to Section 3.04 hereof, the manner of exercising any power shall be subject only to the restrictions upon the manner of exercising such powers as are imposed upon Marin Clean Energy in the exercise of similar powers; *provided, however*, that nothing herein shall limit the powers of CCCFA under Article 4 of the Act.

Any Bonds issued or incurred by CCCFA shall not constitute general obligations of CCCFA, but shall be payable solely from the moneys pledged to the payment of principal of or interest on such Bonds under the terms of the resolution, indenture, trust agreement or other instrument pursuant to which the Bonds are issued or incurred, as further described in Article VII hereof. Such Bonds shall not constitute debts, liabilities or obligations of the Members.

Any of the Prepayment Projects acquired, financed or refinanced by CCCFA shall be operated by a Member or CCCFA for and on behalf of CCCFA, either directly or pursuant to contract or agreement with a third party designated by the applicable Member or Members and approved by CCCFA. None of the Members or CCCFA shall have liability for the breach, negligence or willful misconduct of any such third party.

Article III. MEMBERSHIP

Section 3.01 Founding Members. A Public CCA Agency will be qualified to join as a Founding Member only if it possesses the power to purchase and sell electric energy and enter into related contracts for such purposes. Public CCA Agencies may be added as parties to this Agreement and become Founding Members, and existing Associate Members may be elevated to Founding Members, upon: (1) the filing by such Public CCA Agency with the Board of an executed counterpart of this Agreement, together with a copy of the resolution of the governing body of such Public CCA Agency approving this Agreement and the execution and delivery hereof, and requesting to be added as a Founding Member of CCCFA; (2) the approval at a regular or special meeting of the Board by at least two-thirds (2/3) of the entire Board, and the adoption of a resolution of the Board approving the addition of such Public CCA Agency as a Founding Member; and (3) the deposit with, or the written agreement to pay to, CCCFA a share of organization, planning and other costs and charges as determined by the Board to be appropriate, if any. Upon satisfaction of such conditions, the Board shall file such executed counterpart of this Agreement as an amendment hereto, effective upon such filing. Upon completion of the foregoing, the Public CCA Agency shall become a Founding Member for all purposes of this Agreement.

Section 3.02 Associate Members. A Public CCA Agency will be qualified to join as an Associate Member only if it possesses the power to purchase and sell electric energy and enter into related contracts for such purposes. Public CCA Agencies may be added as Associate Members of CCCFA upon: (1) the filing by such Public CCA Agency with the Board of an executed counterpart of this Agreement, together with a copy of the resolution of the governing body of such Public CCA Agency approving this Agreement and the execution and delivery hereof, and requesting to be added as an Associate Member of CCCFA; (2) the approval at a regular or special meeting of the Board by a majority vote of the Directors in attendance, provided a quorum is established and maintained, and the adoption of a resolution of the Board approving the addition of such Public CCA Agency as an Associate Member; and (3) the deposit with, or the written agreement to pay to, CCCFA a share of organization, planning and other costs and charges as determined by the Board to be appropriate, if any. Upon satisfaction of such conditions, the Board shall file such executed counterpart of this Agreement as an amendment hereto, effective upon such filing. Upon completion of the foregoing, the Public CCA Agency shall become an Associate Member for all purposes of this Agreement.

Section 3.03 Cost Allocations.

- (a) Unless otherwise determined by a two-thirds (2/3) vote of the entire Board, each Member shall pay an equal share of one Member one share for general and administrative costs as determined by the Board associated with all operations of CCCFA. General and administrative costs do not include any costs that relate solely to any specific Prepayment Project Contract.
- (b) The costs of each Prepayment Project shall be allocated solely to the Member or Members undertaking or participating in such Prepayment Project or on whose behalf CCCFA undertakes such Prepayment Project, which allocation shall be described in a Prepayment Project Contract relating to such Prepayment Project.

Section 3.04 Withdrawal or Exclusion of Member.

- (a) Any Member may withdraw from CCCFA upon the following conditions:
 - (i) The Member shall have filed with the Board Secretary a certified copy of a resolution of its governing body expressing its desire to so withdraw. If a Founding Member files a resolution to withdraw with the Board Secretary, that Founding Member no longer has any voting rights on the Board;
 - (ii) Members undertaking or participating in Prepayment Projects or on whose behalf CCCFA undertakes a Prepayment Project shall remain subject to the cost allocation, participation and withdrawal terms and conditions, as applicable, set forth in the applicable Prepayment Project Contract; and
 - (iii) Prior to the Board accepting the Member's filing of such resolution, any Member so terminating shall be obligated to pay its share of general and administrative costs then due. However, this obligation shall take into account any refunds due to the Member and shall not extend to debts, liabilities and obligations of CCCFA. The debts, liabilities and obligations of CCCFA shall not constitute debt, liabilities or obligations of any Member.
 - (iv) No such withdrawal shall, or shall be permitted if it would, result in (a) CCCFA having fewer than three Founding Members; or (b) the dissolution of CCCFA so long as any Bonds remain outstanding under any resolution, indenture, trust agreement or other instrument pursuant to which such Bonds are issued or incurred.
- (b) Upon compliance with the conditions specified in Section 3.04(a), the Board shall accept the withdrawing Member's resolution and the withdrawing Member shall no longer be considered a Member for any reason or purpose under this Agreement and its rights and obligations under this Agreement shall terminate. The withdrawal of a Member shall not affect any obligations of such Member under any Prepayment Project Contract or other program agreement.
- (c) Any Member which has (i) defaulted under this Agreement, a Prepayment Project Contract, or other program agreement, (ii) if such Member is a Founding Member, failed to appoint a Director to serve on the Board in accordance with Section 4.02 below, or (iii) failed to pay any required share of costs in accordance with Sections 3.01, 3.02, and 3.03 above, may have its rights under this Agreement terminated and may be excluded from participation in CCCFA by the vote (taken at a regular or special meeting of the Board) of at least two-thirds (2/3) of the entire Board (including the Director representing the defaulting Member, if such Member is a Founding Member). Prior to any vote to terminate participation of any Member, written

notice of the proposed termination and the reason(s) for such termination shall be delivered to the Member whose termination is proposed at least 60 days prior to the Board meeting at which such matter shall first be discussed as an agenda item. The written notice of the proposed termination shall specify the particular provisions of this Agreement or a Prepayment Project Contract or other program agreement which the Member has allegedly defaulted on, or whether the proposed termination is based on failure to appoint a Director (if such Member is a Founding Member) or pay any required share of costs. The Member subject to possible termination shall have the opportunity to cure the violation prior to the meeting at which termination will be considered. At the meeting where termination of the Member is considered, the Member shall be given the opportunity to respond to any reasons and allegations that may be cited as a basis for termination prior to a termination vote. Any excluded Member shall continue to be liable for its obligations under any Prepayment Project Contract or other program agreement and for any unpaid contribution, payment, or advance approved by the Board prior to such Member's exclusion. No such termination shall, or shall be permitted if it would, result in (a) CCCFA having fewer than three Founding Members; or (b) the dissolution of CCCFA so long as any Bonds remain outstanding under any resolution, indenture, trust agreement or other instrument pursuant to which such Bonds are issued or incurred.

- (d) The withdrawal or termination of a Member shall not affect the provisions or obligations set forth in Article VIII or Section 11.04 below.

Section 3.05 Contributions and Advances. Contributions or advances of public funds and of personnel, equipment or property may be made to CCCFA by any Member for any of the purposes of this Agreement. Payment of public funds may be made to defray the cost of such purpose. Any such advance shall be made subject to repayment, and shall be repaid in the manner agreed upon by such Member and CCCFA at the time of making such advance. It is mutually understood and agreed that no Member is under any obligation to make advances or contributions to CCCFA to provide for the costs and expenses of administration of CCCFA, even though any Member, in its sole discretion, may do so. Any Founding Member may allow the use of personnel, equipment or property in lieu of other contributions or advances to CCCFA.

Article IV. POWERS OF BOARD & MANAGEMENT OF CCCFA

Section 4.01 Board. CCCFA shall be administered by a Board which shall consist of one Director representing each Founding Member. Such Board shall be the governing body of this CCCFA, and, as such, shall be vested with the powers set forth in this Agreement, and shall execute and administer this Agreement in accordance with the purposes and functions provided herein. The Board shall have the authority to provide for the general management and oversight of the affairs, property and business of CCCFA.

Section 4.02 Appointment and Vacancies. Each Director shall be the Chief Executive Officer, General Manager, Executive Director, or designee of the Chief Executive Officer, General Manager, or Executive Director, of each Founding Member and shall be appointed by and serve at the pleasure of the Founding Member that the Director represents, and may be removed as Director by such Founding Member at any time. If at any time a vacancy occurs on the Board, a replacement shall be appointed by the Founding Member to fill the position of the previous Director in accordance with the provisions of this Article IV within 60 days of the date that such position becomes vacant or the Founding Member shall be subject to the exclusion procedures in Section 3.04(c) above. Each Director may appoint an alternate to serve in their absence.

Section 4.03 Notices. The Board shall comply with the applicable provisions of Sections 6503.5, 6503.6 and 53051 of the Government Code requiring the filing of notices and a statement with the Secretary of State and the State Controller.

Section 4.04 Committees. The Board may create committees to provide advice to the Board or conduct the business of CCCFA subject to delegation of authority from the Board as permitted in the bylaws and any applicable laws.

Section 4.05 Director Compensation. Compensation for work performed by Directors, including alternates, on behalf of CCCFA shall be borne by the Founding Member that appointed the Director. The Board, however, may adopt by resolution a policy relating to the reimbursement of expenses incurred by Directors.

Section 4.06 Board Officers. At its first meeting in every second calendar year, the Board shall elect or re-elect a Chair and a Vice-Chair, each of whom shall be selected from among the Directors and shall also appoint or re-appoint a Secretary, and a Treasurer/Controller, each of whom may, but need not, be selected from among the Directors.

- (a) **Chair and Vice-Chair.** The duties of the Chair shall be to preside over the Board meetings, sign all ordinances, resolutions, contracts and correspondence adopted or authorized by the Board, and to help ensure the Board's directives and resolutions are carried out. In the absence or inability of the Chair to act, the Vice Chair shall act as Chair.
- (b) **Treasurer/Controller.** The Board shall appoint a qualified person to act as the Treasurer/Controller, who does not need to be a Director. Where a certified public accountant has been designated as Treasurer/Controller of CCCFA, the auditor of one of the Founding Members or of a county in which one of the Founding Members is located shall be designated as auditor of CCCFA. Subject to the provisions of any resolution, indenture, trust agreement or other instrument providing for a trustee or other fiscal agent in connection with any Bonds, and, except as may otherwise be specified by resolution of CCCFA, the Treasurer/Controller shall be the depository of CCCFA to have custody of all the money of CCCFA, from whatever source, and, as such, shall have the powers, duties and responsibilities specified in Section 6505.5 of the Government Code. The Treasurer/Controller is hereby designated as the public officer or person who has charge of, handles, or has access to any property of CCCFA, and such officer shall file an official bond in an amount determined from time to time by the Board as required by Section 6505.1 of the Government Code. The Treasurer/Controller shall cause an independent audit to be made by a certified public accountant, or public accountants, in compliance with Section 6505 of the Government Code. The Treasurer/Controller shall also create or caused to be created a report in writing on the first day of each fiscal quarter to CCCFA and each Founding Member, which report shall describe the amount of money held by the Treasurer/Controller, the amount of receipts since the last such report, and the amount paid out since the first such report.
- (c) **Secretary.** The Secretary shall be responsible for keeping the minutes of all meetings of the Board and all other official records of CCCFA, and responding to public records requests of the JPA.

Section 4.07 Management of CCCFA. The Board may appoint a part-time or full-time General Manager, and may appoint one or more part-time or full-time Assistant General Managers, to serve at the pleasure of the Board. If a General Manager has been appointed, the General Manager shall be responsible for the day-to-day operation and management of CCCFA. If no General Manager shall have been appointed, the Treasurer/Controller shall be responsible for the day-to-day operation and management of CCCFA. The General Manager, if any, and the Treasurer/Controller may each enter into and execute contracts in accordance with the policies established and direction provided by the Board, and shall file an official bond in the amount determined from time to time by the Board.

Section 4.08 Other Officers and Employees. The Board shall have the power to appoint such other officers, deputies, legal counsel (which may be the legal counsel to one or more of the Members) and staff as it may deem necessary who shall have such powers, duties and responsibilities as are determined by the Board, and to retain independent accountants, legal counsel, engineers and other consultants. The Founding Members may contract with CCCFA to provide staff to perform services for CCCFA, but such employees shall at all times, and for all purposes including benefits and compensation, remain employees of the Founding Member only.

Section 4.09 Budget. The budget shall be approved by the Board. The Board may revise the budget from time-to-time as may be reasonably necessary to address contingencies and expected expenses. All subsequent budgets of CCCFA shall be approved by the Board in accordance with rules as may be adopted by the Board from time to time. All expenditures must be made in accordance with the adopted budget.

Section 4.10 Fiscal Year. Unless changed by resolution of the Board, the fiscal year of CCCFA shall be the period from January 1 of each year to and including the following December 31.

Article V. MEETINGS OF THE BOARD

Section 5.01 Regular Meetings. The Board shall hold at least one regular meeting per year, but the Board may provide for the holding of regular meetings at more frequent intervals. The date, hour and place of each regular meeting shall be fixed by resolution of the Board. Regular meetings may be adjourned to another meeting time.

Section 5.02 Special Meetings. Special and emergency meetings of the Board may be called in accordance with the provisions of Government Code Sections 54956 and 54956.5, as amended.

Section 5.03 Brown Act Compliance. All meetings of the Board shall be conducted in accordance with the provisions of the Ralph M. Brown Act (Government Code Section 54950 *et seq.*), and as augmented by rules of the Board not inconsistent therewith. Directors may participate in meetings telephonically or by other electronic means, with full voting rights, to the extent permitted by law.

Section 5.04 Minutes. The Secretary shall cause to be kept minutes of the meetings of the Board, both regular and special, and shall cause a copy of the minutes to be forwarded promptly to each Director.

Section 5.05 Quorum. A quorum of the Board shall consist of a majority of the Directors, except that less than a quorum may adjourn from time to time in accordance with law.

Section 5.06 Voting. Each Founding Member shall have one vote, which may be cast on any matter before the Board by each Director or alternate. Except to the extent otherwise specified in this Agreement, or by law, a vote of the majority of the Directors in attendance shall be required and sufficient to constitute action, provided a quorum is established and maintained.

(a) Special Voting Requirements as specified in this Agreement:

- (i)** Action of the Board on the matters set forth in Section 3.01 related to addition of Founding Members shall require the affirmative vote of at least two-thirds (2/3) of the Entire Board.
- (ii)** Action of the Board on the matters set forth in Section 3.04(c) related to involuntary termination of a Member shall require the affirmative vote of at least two-thirds (2/3) of the entire Board.

- (iii) Action of the Board on the matters set forth in Section 9.01 related to termination of this Agreement shall require the affirmative vote of at least two-thirds (2/3) of the entire Board approved by resolution of each Founding Member's governing body.
- (iv) Action of the Board to amend any other provision of this Agreement shall be subject to the voting requirements set forth in Section 11.03 below.

Section 5.07 Rules and Regulations. CCCFA may adopt, from time to time, by resolution of the Board such bylaws, policies or rules and regulations for the conduct of its meetings and affairs as may be required.

Article VI. PREPAYMENT PROJECTS

Section 6.01 Prepayment Projects. The Board has the power, upon majority vote of the Directors in attendance, provided a quorum is established and maintained, to approve the application of any Member for the undertaking, financing, or refinancing of any Prepayment Projects within the purpose and power of CCCFA and to adopt guidelines for their implementation.

Section 6.02 Prepayment Project Contract. The costs and other expenses of each Prepayment Project, including without limitation applicable administrative costs of CCCFA with respect to the Prepayment Project, shall be allocated solely to the Member or Members undertaking or participating in such Prepayment Project or on whose behalf CCCFA undertakes such Prepayment Project, which allocation shall be described in a Prepayment Project Contract relating to such Prepayment Project, which will be separate and distinct from this Agreement.

Article VII. BONDS AND OTHER INDEBTEDNESS

In addition to the other powers conferred on CCCFA by this Agreement, CCCFA shall have the power to issue, incur, sell and deliver Bonds in accordance with the provisions of the Act and other applicable laws for the purpose of acquiring, undertaking, financing, or refinancing one or more Prepayment Projects. The terms and conditions of the issuance or incurrence of any such bonds or indebtedness shall be set forth in a resolution, indenture trust agreement, or other instrument pursuant to which the Bonds are issued or incurred, as required by law and as approved by the Board. CCCFA's debts, liabilities and obligations with respect to Bonds issued or incurred under this Agreement and contracts or obligations entered into to carry out the purposes for which Bonds are issued or incurred, shall not constitute a debt, liability or obligation of any of the Members.

Any Bonds issued or incurred by CCCFA shall not constitute general obligations of CCCFA, but shall be payable solely from the moneys pledged to the payment of principal of or interest on such Bonds under the terms of the resolution, indenture, trust agreement or other instrument pursuant to which the Bonds are issued or incurred.

Article VIII. LIMITATION ON LIABILITY OF MEMBERS

Section 8.01 Pursuant to Section 6508.1 of the Government Code, no debt, liability or obligation of CCCFA shall be a debt, liability or obligation of any Member. Nothing contained in this Article VIII shall in any way diminish the liability of any Member with respect to any Prepayment Project Contract such Member enters into pursuant to this Agreement.

Section 8.02 Notwithstanding anything to the contrary in this Agreement or otherwise, CCCFA shall not have the power to and shall not enter into any retirement contract with any public retirement system (as defined in Section 6508.1 of the Government Code) for any reason. The provision in this paragraph is intended to

benefit Members and to be a confirming, irrevocable obligation of CCCFA which may be enforced by Members individually or collectively.

Article IX. TERM; TERMINATION; LIQUIDATION; DISTRIBUTION

Section 9.01 Term and Termination. This Agreement shall become effective when at least three Founding Members execute this Agreement. This Agreement shall continue in full force and effect until terminated as provided in this Article; *provided, however*, this Agreement cannot be terminated while either (a) any Bonds of CCCFA remain outstanding under the terms of the resolution, indenture, trust agreement or other instrument pursuant to which such Bonds are issued or incurred, or (b) CCCFA is the owner, lessor or lessee of any real or personal property financed from the proceeds of any Bonds. This Agreement may be terminated by a two-thirds (2/3) vote of the entire Board that is approved by resolution of each Founding Member's governing body; *provided, however*, that this Agreement and CCCFA shall continue to exist after termination for the purpose of disposing of all claims, distribution of assets and all other functions necessary to conclude the obligations and affairs of CCCFA. In any event, CCCFA shall cause all records regarding its formation, existence, the Prepayment Projects, any Bonds issued or incurred by it and proceedings pertaining to its termination to be retained for at least six years (or as otherwise required by law) following termination of CCCFA or final payment of any Bonds issued or incurred by CCCFA, whichever is later.

Section 9.02 Liquidation; Distribution. Upon termination of this Agreement, the Board shall liquidate the business and assets and the property of CCCFA as expeditiously as possible, and distribute any net proceeds, after the conclusions of all debts and obligations of CCCFA, to any Members in proportion to the contributions made or in such manner as otherwise provided by law. The Board is vested with all powers of CCCFA for the purpose of concluding and dissolving the business affairs of CCCFA. Notwithstanding the foregoing, no dissolution of CCCFA shall be permitted while either (a) any Bonds of CCCFA remain outstanding, or (b) CCCFA is the owner, lessor or lessee of any real or personal property financed from the proceeds of any Bonds.

ARTICLE X. ACCOUNTS AND REPORTS

Section 10.01 Establishment and Administration of Funds. CCCFA is responsible for the strict accountability of all funds and reports of all receipts and disbursements. It will comply with every provision of law relating to the establishment and administration of funds, including without limitation Section 6505 of the Government Code. CCCFA shall establish and maintain such funds and accounts as may be required by good accounting practice or by any provision of any resolution, indenture or other instrument of CCCFA securing its bonds or other indebtedness, except insofar as such powers, duties and responsibilities are assigned to a trustee appointed pursuant to such resolution, indenture or other instrument. The books and records of CCCFA shall be open to inspection at all reasonable times to each Member and its representatives.

Section 10.02 Annual Audits and Audit Reports. The Treasurer/Controller shall cause an annual independent audit of the accounts and records of CCCFA to be made by a certified public accountant or public accountant in accordance with all applicable laws. If permitted by applicable law and authorized by the Board, the audit(s) may be conducted at the longer interval authorized by applicable law. A report of the financial audit will be filed as a public record with each Member not later than 270 days after the close of the fiscal year or fiscal years under examination. CCCFA will pay the cost of the financial audit and charge the cost against the Members in the same manner as other administrative costs.

ARTICLE XI. GENERAL PROVISIONS

Section 11.01 Conflict of Interest Policy. CCCFA, unless otherwise exempt, shall adopt a conflict of interest policy as required under applicable laws of the State of California. Counsel to CCCFA for financing

matters, including bond counsel, shall not be considered a consultant or other designated position for purposes of the conflict of interest policy.

Section 11.02 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties. Except to the extent expressly provided herein, neither a Member nor CCCFA may assign any right or obligation under this Agreement without the consent of all other Members.

Section 11.03 Amendments. Subject to any requirements of law, a two-thirds (2/3) vote of the entire Board will be required to amend Articles II, III, VIII, and IX of this Agreement, and an amendment of Section 8.02 and Section 11.03 of this Agreement shall require an affirmative vote of the entire Board. Once an amendment of Articles II, III, VIII, or IX is adopted by the Board, the amendment must be approved by two-thirds of the Founding Members pursuant to each Founding Member's applicable approval process, and an amendment of Section 8.02 and Section 11.03 of this Agreement shall require an affirmative vote of all Founding Members pursuant to each Founding Member's applicable approval process. All other provisions of this Agreement may be amended at any time or from time to time by an amendment approved by at least two-thirds (2/3) vote of the entire Board. Written notice shall be provided to all Members of proposed amendments to this Agreement, including the effective date of such amendments, at least thirty (30) days prior to the date upon which the Board votes on such amendments. Each Member hereby agrees to take any actions necessary on its part to approve any amendment adopted pursuant to this Section 11.03, and if any Member fails to perform any such actions, such Member shall be deemed to have submitted a resolution of withdrawal pursuant to the provisions of Section 3.04 hereof.

Notwithstanding the foregoing, this Agreement shall not terminate while any Bonds of CCCFA remain outstanding under the terms of the resolution, indenture, trust agreement or other instrument pursuant to which such Bonds are issued or incurred.

Section 11.04 Indemnification and Insurance. To the fullest extent permitted by law, CCCFA shall defend, indemnify, and hold harmless the Members and each Director, alternate, officer, employee and agent from any and all claims losses damages, costs, injuries and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts, and omissions of CCCFA under this Agreement to the extent not otherwise provided under a Prepayment Project Contract. CCCFA shall acquire such insurance coverage as the Board deems is necessary and appropriate to protect the interests of CCCFA and the Members.

Section 11.05 Waiver of Personal Liability. No member, director, commissioner, officer, agent or employee of CCCFA or the Members, respectively, past, present or future, shall be individually or personally liable for the observance or performance of any terms, conditions or provisions hereof or for any claims, losses, damages, costs, injury and liability of any kind, nature or description arising from the actions of CCCFA or the actions undertaken pursuant to this Agreement; provided, however, that nothing herein shall relieve any such person from the performance of any official duty provided hereby or by applicable provision of law.

Section 11.06 Limitation of Rights. All of the covenants, agreements, terms and conditions in this Agreement to be observed or performed by or on behalf of CCCFA or the Members shall be for the sole and exclusive benefit of CCCFA and the Members, whether so expressed or not, and nothing contained herein, express or implied, is intended to or shall give any other person other than CCCFA and the Members any legal or equitable right, remedy or claim hereunder.

Section 11.07 Notices. The Board shall designate its principal office as the location at which it will receive notices, correspondence, and other communications, and shall designate one of its Directors or staff as an officer for the purpose of receiving service of process on behalf of CCCFA. Any notice given pursuant to this Agreement shall be in writing and shall be dated and signed by the Member giving such notice. Notice to each Member under this Agreement is sufficient if mailed to the Member, and separately to the Director appointed by such Founding Member, to their respective addresses on file with CCCFA.

Section 11.08 Severability. Should any portion, term, condition, or provision of this Agreement be determined by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or be otherwise rendered unenforceable or ineffectual, the remaining portions, terms, conditions, and provisions shall not be affected thereby.

Section 11.09 Section Headings. The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section to which they refer.

Section 11.10 Choice of Law. This Agreement will be governed and construed in accordance with the laws of the State of California.

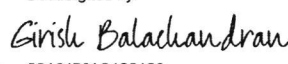
Section 11.11 Counterparts. This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument and as if all Members had signed the same instrument.

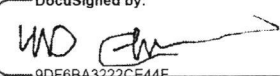
Section 11.12 Dispute Resolution. The Members shall make reasonable efforts to informally settle all disputes arising out of, or in connection with, this Agreement. Should such informal efforts to settle a dispute fail, the dispute shall be mediated in accordance with policies and procedures established by the Board. In the event such mediation fails to settle a dispute, the parties may pursue any remedies provided by law.


[Signature Page Follows]

IN WITNESS WHEREOF, each Member hereto has caused this Agreement to be executed as an original counterpart by its duly authorized representative on the date indicated below.

DocuSigned by:
By: 
A59878416EBG4F8...
Name: Dawn Weisz
Title: CEO
CCA Name: MCE
Date: June 25, 2021

DocuSigned by:
By: 
5CA6489AG4C24C3...
Name: Girish Balachandran
Title: CEO
CCA Name: Silicon Valley Clean Energy
Date: June 25, 2021

DocuSigned by:
By: 
9DF6BA3222CE44F...
Name: Nick Chaset
Title: CEO
CCA Name: East Bay Community Energy
Date: June 25, 2021

DocuSigned by:
By: 
69C25377448B497...
Name: Tom Habashi
Title: CEO
CCA Name: central coast community energy
Date: June 25, 2021

IN WITNESS WHEREOF, each Member hereto has caused this Agreement to be executed as an original counterpart by its duly authorized representative on the date indicated below.

E-SIGNED by Donald Eckert

on 2022-09-02 12:27:33 PDT

By: _____


Name: Donald Eckert

Title: Executive Director

CCA Name: Pioneer Community Energy

Date: September 02, 2022

IN WITNESS WHEREOF, each Member hereto has caused this Agreement to be executed as an original counterpart by its duly authorized representative on the date indicated below.

DocuSigned by:
By: 
DCE57B93CTDA48A...
Name: Ted Bardacke
Title: Chief Executive Officer
CCA Name: Clean Power Alliance of Southern California
Date: 9/6/2022

IN WITNESS WHEREOF, each Member hereto has caused this Agreement to be executed as an original counterpart by its duly authorized representative on the date indicated below.

By: Lori Mitchell

Name: *Lori Mitchell*
Lori Mitchell (Jun 17, 2024 10:54 PDT)

Title: Director Community Energy

CCA Name: San Jose Clean Energy

Date: 06/17/2024

EXHIBIT B

BY-LAWS

(see attached)

**BYLAWS OF THE
CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY**

Adopted June 25, 2021

BYLAWS OF THE CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY

ARTICLE I - THE AUTHORITY

Section 1.1 Name. The official name of the Authority shall be the “California Community Choice Financing Authority.”

Section 1.2 Board Members. The Authority shall be administered by a board of directors (the “Board”) whose members (the “Directors”) shall be as set forth in Article IV of the Joint Powers Agreement, dated June 25, 2021 (the “Agreement”). Directors shall, to the extent required by law, comply with the requirements of the California Political Reform Act, as amended from time to time, the provisions of the Joint Exercise of Powers Act, as amended from time to time, and any other requirements applicable to members of the governing body of a joint powers authority.

Section 1.3 Office and Place of Meetings. The business office of the Authority shall be at 1125 Tamalpais Avenue, San Rafael, California 94901 or at such other place as may be designated by resolution by the Board. Regular meetings shall be held at 1125 Tamalpais Avenue, San Rafael, California 94901 or at such other place as the Board may designate.

ARTICLE II - OFFICERS

Section 2.1 Officers. The Officers of the Authority shall be the Chair, Vice Chair, Treasurer/Controller, and Secretary. The Officers of the Authority may also include a General Manager.

Section 2.2 Chair and Vice Chair. The Chair and Vice Chair of the Authority shall be elected by the Board. The term of office for the respective officers shall be from the date of his or her election as Chair or Vice Chair through the date of the first regular meeting of the Authority in the second succeeding calendar year following such election: provided, that each person shall serve until a successor has been duly elected. The Chair shall preside at all meetings of the Authority. If the Chair is absent, then the Vice Chair shall act in the Chair’s place.

Section 2.3 General Manager. A General Manager may be appointed by the Board and may, but need not, be a Director. The General Manager shall submit such information and recommendations to the Board as he or she may consider proper concerning the business, policies and affairs of the Authority. Except as otherwise specified by resolution of the Board, the General Manager or the General Manager's designee shall have the power to sign all contracts, deeds and other instruments executed by the Authority, shall have the power to direct employees, borrowed or seconded staff and consultants in implementing policy set by the Board, and shall have the power to perform all duties incident to the office or delegated by the Board. The General Manager may designate one or more officers of the Authority or employees of the Authority to act as his or her designee in exercising the power and performing the duties of the General Manager.

Section 2.4 Secretary. The Secretary shall be appointed by the Board, and such Secretary may, but need not, be a Director. The Secretary shall keep the records of the Authority, shall act as Secretary of the meetings of the Authority and record all votes, and shall keep a record of the proceedings of the Authority in a journal of proceedings to be kept for such purpose, and shall perform all duties incident to the office.

Section 2.5 Treasurer/Controller. The Treasurer/Controller shall be appointed by the Board, and may, but need not, be a Director. The Treasurer/Controller shall perform the duties set forth in the Agreement. The Treasurer/Controller may submit such information and recommendations to the Board as he or she may consider proper concerning the business, policies and affairs of the Authority. The Treasurer/Controller shall be responsible for preparation and submission of any reports required to be provided to holders of the Authority's Bonds (as such term is defined in Section 1.05 of the Agreement) pursuant to any continuing disclosure undertakings entered into by the Authority. Except as otherwise specified by resolution of the Board, the Treasurer/Controller or the Treasurer/Controller's designee shall have the power to sign all contracts, deeds and other instruments executed by the Authority, shall have the power to direct employees, borrowed or seconded staff and consultants in implementing policy set by the Board,

and shall have the power to perform all duties incident to the office or delegated by the Board. The Treasurer/Controller may designate one or more officers of the Authority or employees of the Authority to act as his or her designee in exercising the power and performing the duties of the Treasurer/Controller.

Section 2.6 Election of Officers. Election of officers shall be the first order of business at the first regular meeting of the Authority held in every second calendar year; provided, that failure to elect any or all officers at such meeting shall not affect the title to office of any officer duly elected and then holding office as of such meeting.

Section 2.7 Authority to Bind Authority. No Director, officer, agent or employee of the Authority, without prior specific or general authority by a vote of the Board, shall have any power or authority to bind the Authority by any contract, to pledge its credit, or to render it liable for any purpose in any amount.

ARTICLE III - MEETINGS

Section 3.1 Regular Meetings. The Board shall hold at least one regular meeting each year, and, by resolution, may provide for the holding of regular meetings at more frequent intervals in accordance with the provisions of Section 54956 of the Government Code of the State of California. Regular meetings shall be held as set forth in Section 1.3, on dates and at times as fixed by resolution of the Authority and at such places as are determined by the Board. If at any time any regular meeting falls on a legal holiday, such regular meeting shall be held on the next business day at the same time.

All meetings of the Board shall be called, noticed, held and conducted subject to the provisions of the Ralph M. Brown Act (Chapter 9 of Part I of Division 2 of Title 5 of the Government Code of the State of California (Sections 54950-54961)), as supplemented and amended, or any successor legislation hereafter enacted, and other applicable law.

The Secretary of the Authority shall cause minutes of all meetings of the Board, both special and regular, to be kept and shall cause a copy of the minutes to be forwarded promptly to each Director.

Section 3.2 Special Meetings. A special meeting may be called in accordance with the provisions of Sections 54956 and 54956.5 of the Government Code of the State of California, as amended.

Section 3.3 Closed Sessions. Nothing contained in these Bylaws shall be construed to prevent the Board from holding closed sessions during a regular or special meeting concerning any matter permitted by law to be considered in a closed session.

Section 3.4 Public Hearings. All public hearings held by the Board shall be held during regular or special meetings of the Board.

Section 3.5 Adjourning Meetings and Continuing Public Hearings to Other Times or Places. Any public hearing being held, or any hearing noticed or ordered to be held at any meeting, may by order or notice of continuance be continued or re-continued to any subsequent meeting in the same manner and to the same extent set forth herein for the adjournment of the meetings: provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing a copy of the order or notice of continuance shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

Section 3.6 Meetings to be Open and Public. All meetings of Directors to take action or to deliberate concerning Authority business and its conduct shall be open and public and all persons shall be permitted to attend any such meetings, except as otherwise provided or permitted by law, including as permitted by Section 3.3 of these Bylaws.

Section 3.7 Quorum, Voting Requirements, and Manner of Action. A quorum of the Board, the minimum voting thresholds for actions of the Board, and the manner in which the Board may act shall be as set forth in Article V of the Agreement.

Section 3.8 Parliamentary Procedure. The rules of parliamentary procedure set forth in Robert's Rules of Order shall govern all meetings of the Authority, except as otherwise herein provided.

ARTICLE IV - MISCELLANEOUS

Section 4.1 Statements of Economic Interest. Each Director shall comply with the Authority's Conflict of Interest Code, fully respond to all requests from Authority staff in regard to conflict of interest issues that may arise and timely submit all applicable forms, including Statements of Economic Interest (Form 700), Assuming, Annual, and Leaving Office Statements with the Secretary. The Secretary shall make and retain copies of these forms in compliance with applicable law and the Authority's Conflict of Interest Code.

Section 4.2 No Reimbursement for Travel Expenses. Directors, officers, and employees shall not be reimbursed by the Authority for any travel expenses incurred by those persons in attending events, meetings, and conferences on behalf of the Authority. Non-reimbursable travel expenses shall include all charges for meals, lodging, airfare, and costs of travel by automobile.

Notwithstanding the foregoing, the Board may vote to permit reimbursement of any such reasonable and necessary travel expenses incurred for Directors, officers, or employees to attend non-Authority events, meetings, and conferences, only if that person's sole purpose is to attend on behalf of the Authority. "Reasonable and necessary" travel expenses, with respect to any Director, shall be only those expenses which the Director would not have incurred in performing the normal business of the Founding Member (as defined in Section 1.08 of the Agreement) that appointed such Director. The Treasurer/Controller, upon approval of the Board, shall be authorized to pay all such expenses deemed reasonable and necessary so long as sufficient funds have been budgeted therefor.

Section 4.3 Bonds and Other Indebtedness. The Authority may issue or incur Bonds (as such term is defined in Section 1.05 of the Agreement) in accordance with Article VII of the Agreement, and such Bonds shall not constitute general obligations of the Authority or a debt, liability or obligation of any of the Members (as such term is defined in Section 1.10 of the Agreement), but shall be payable solely from the moneys pledged to the payment of principal of or interest on such Bonds under the terms of the resolution, indenture, trust agreement or other instrument pursuant to which the Bonds are issued or incurred.

ARTICLE V - AMENDMENTS

Section 5.1 Amendments to Bylaws. These Bylaws may be amended by the Authority at any regular or special meeting by majority vote of the Board, provided, that the proposed amendment to any particular section is included in the notice of such meeting.